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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,937	02/28/2000	Scott Samikowski	100.112US02	9449
34206	7590	06/30/2004		
FOGG AND ASSOCIATES, LLC P.O. BOX 581339 MINNEAPOLIS, MN 55458-1339			EXAMINER JONES, PRENELL P	
			ART UNIT 2667	PAPER NUMBER 10
DATE MAILED: 06/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/513,937

Applicant(s)

SARNIKOWSKI ET AL.

Examiner

Prenell P Jones

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-21 is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2667

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 1-3, 11-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball et al in view of Vaid et al.

Art Unit: 2667

Regarding claims 1-3, 11-13, 15 and 16, Ball discloses (Abstract, Figs. 1, 3, 4, 6, 14-16, 21, 29b, 30, 31, col. 3, line 55 thru col. 4, line 8, col. 5, line 26 thru col. 6, line 25, col. 32, line 36 thru col. 33, line 63) a service management system wherein the communication architecture includes an enterprise system which includes (Fig. 3) two policy servers, multiple Internet Service Provider (ISP) (service delivery unit) coupled to a policy server, (col. 5, line 67 thru col. 6, line 25, col. 7, line 36-59) ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN), plurality of end-end units (LANs), plurality of ports wherein ports are used as interfaces for end units and host/Internet/WAN, bandwidth usage (bandwidth monitored) is considered by ISPs, (col. 14, line 18-36) MAC ID is predefined in network interface cards (NIC) which is an interface to WAN/Internet, and it is known in the art that a communication device consist of data ports and network ports for communicating between other devices. Ball is silent on policy for allocating bandwidth. In analogous art, Vaid discloses (Figs. 4-7 & 16-18, col. 11, line 56 thru col. 12, line 10, col. 14, line 33 thru col. 15, line 67) internet service provider (ISP) (service delivery) associated with servers for the purpose of implementing traffic policies, ISP provides services (allocate bandwidth) by Internet link and (col. 13, line 1-7) Internet is used to allocate bandwidth, plurality LANs/WAN, (col. 17, line 66 thru col. 18, line 15, Fig. 9A) plurality user interfaces, (col. 22, line 50 thru col. 25, line 21) distributed bandwidth management associated with policy based approach, (col. 25, line 1-21, col. 28, line 8 thru col. 30, line 54) policy servers allocating bandwidth for user maximum use against competing traffic associated with user

Art Unit: 2667

requirements, Internet service provider is communicated by policy server which communicates bandwidth requirement, (Fig. 16, col. 24, line 3-46) router coupled between data port of ISP and LANs (col. 7, line 7-50) ISP is connected to Ethernet based LANs, (col. 9, line 16-63, Fig. 2) network interface, and it is inherent that a delivery unit consist of a data port for communicating data.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have been motivated to implement a service provider allocating bandwidth to users based on policies stored on policy server as taught by Vaid with the teachings of Ball for the purpose of meeting individual users needs/requirements without monopolizing bandwidth and managing bandwidth usage.

Regarding claims 4-6, Ball discloses (Abstract, Figs. 1, 3, 4, 14, 29b, 30, 31, col. 3, line 55 thru col. 4, line 8, col. 5, line 26 thru col. 6, line 25, col. 32, line 36 thru col. 33, line 63) a service management system wherein the communication architecture includes an enterprise system which includes (Fig. 3) two policy servers, multiple Internet Service Provider (ISP) (service delivery unit) coupled to a policy server, (col. 5, line 67 thru col. 6, line 25, col. 7, line 36-59) ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN).

Regarding claim 7, as indicated above, Ball discloses (Abstract, Figs. 1, 3, 4, 14, 29b, 30, 31, col. 3, line 55 thru col. 4, line 8, col. 5, line 26 thru col. 6, line 25, col.

Art Unit: 2667

32, line 36 thru col. 33, line 63) a service management system wherein the communication architecture includes an enterprise system which includes (Fig. 3) two policy servers, multiple Internet Service Provider (ISP) (service delivery unit) coupled to a policy server, (col. 5, line 67 thru col. 6, line 25, col. 7, line 36-59) ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN), and (col. 12, line 43-55, col. 29, line 24-50) VPN consist of security attributes.

Regarding claims 8-10, as indicated above, Vaid discloses (Figs. 4-7 & 16-18, col. 11, line 56 thru col. 12, line 10, col. 14, line 33 thru col. 15, line 67) internet service provider (ISP) (service delivery) associated with servers for the purpose of implementing traffic policies, ISP provides services (allocate bandwidth) by Internet link and (col. 13, line 1-7) Internet is used to allocate bandwidth, plurality LANs/WAN, (col. 17, line 66 thru col. 18, line 15, Fig. 9A) plurality user interfaces, (col. 22, line 50 thru col. 25, line 21) distributed bandwidth management associated with policy based approach, (col. 25, line 1-21, col. 28, line 8 thru col. 30, line 54) policy servers allocating bandwidth for user maximum use against competing traffic associated with user requirements, Internet service provider is communicated by policy server which communicates bandwidth requirement, (Fig. 16, col. 24, line 3-46) router coupled between data port of ISP and LANs (col. 7, line 7-50) ISP is connected to Ethernet based LANs, (col. 9, line 16-63, Fig. 2) network interface, and it is inherent that a delivery unit consist of a data port for communicating data. Vaid further discloses (col. 15, line 8 thru

col. 16, line 67) traffic polices that include specific requirements such as bandwidth limitations, setting priorities, and ISP with routing features.

***Allowable Subject Matter***

Claims 17-21 are allowed over prior art.

The following is a statement of reasons for the indication of allowable subject matter: Although the cited art, Mohaban et al, Vaid et al, Ball et al, teaches policy based management wherein the architecture includes allocation of network resources (bandwidth), plurality ISPs (service delivery), a computer network that consist of a plurality of LANs interconnected by a plurality of network devices, plurality end-stations, policy server, program instructions/policy stored on a computer readable medium associated with the server, network interface cards, establishing physical ports, ISP provides communication services (service delivery) which is associated and coupled with a policy-based management which in turn is associated with managing traffic flow, multiple ISPs located in different locations providing communication services via world wide network/WAN, ISP associated with servers for the purpose of implementing traffic policies, ISP provides services (allocate bandwidth) by Internet link, policy servers allocating bandwidth for user maximum use against competing Traffic associated with user requirements, Internet service provider is communicated by policy server which communicates bandwidth requirement, router coupled between data port of ISP and LANs connected to Ethernet based LANs, network interface, and it is inherent that a delivery unit consist of a data port for

Art Unit: 2667

communicating data, ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN) they fail to teach classifying the request and identifying global policies that relate to request.

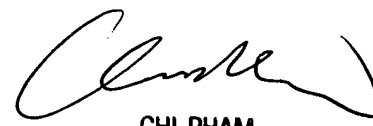
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 703-305-0630. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

June 27, 2004



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6/28/04